



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Paper No.

ERIC PATON  
498 RIO GRANDE CT  
MORGAN HILL, CA 95037

COPY MAILED

DEC 06 2004

OFFICE OF PETITIONS

In re Application of :  
Eric Paton :  
Application No. 09/680,286 :  
Filed: October 6, 2000 : ON PETITION  
Title of Invention: :  
REMOTE MONITORING OF CRITICAL :  
PARAMETERS FOR CALIBRATION OF :  
MANUFACTURING EQUIPMENT AND :  
FACILITIES :

This is a decision on the Petition to Revival Unintentionally Abandoned Application, filed June 21, 2004, to revive the above-identified application. The petition is properly treated under 37 CFR 1.137(b).

The petition is dismissed.

Any further petition to revive the above-identified application (under 37 CFR 1.137(b)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed September 4, 2003. The Office action set a three (3) month period for reply.

Applicant filed a response to the Office action on November 17, 2003; however, the response failed to place the application in condition for allowance. Applicant was so advised in an Advisory Action mailed February 12, 2004.

Accordingly, the application became abandoned for failure to timely and properly reply to the final Office action on December 5, 2003. A Notice of Abandonment was mailed on April 5, 2004.

Petition under 37 CFR 1.137(a)

A petition under the unavoidable provisions of 37 CFR 1.137(a), filed on April 9, 2004, was dismissed in a Decision mailed May 20, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b). In the Decision mailed May 20, 2004, Applicant stated that the delay was unavoidable because Applicant was away from home when the advisory action was received "showing the notice for the extension fee deadline."

Applicant was advised that the Advisory Action did not extend the deadline for filing a complete and proper reply to the final Office action, which was mailed on September 4, 2003. The Advisory Action simply informed Applicant that his response to the final Office action, that Applicant filed on November 17, 2003, was not a complete and proper response to the September 4, 2003 final Office action and therefore failed to place the application in condition for allowance. Applicant was informed that the application became abandoned because Applicant failed to timely and properly reply to the final Office action, mailed September 4, 2003.

Applicant was strongly urged to file a petition stating that the delay was unintentional.

The instant petition

Applicant now files the instant petition and Amendment. Applicant is advised that the Amendment fails to make the amendments as suggested by the Examiner and raises new issues and thus fails to place the application in condition for allowance.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed); (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

This petition lacks item (1) above. The Amendment fails to make the amendments as suggested by the Examiner and raises new

issues and thus fails to place the application in condition for allowance. Accordingly, the required reply has not been submitted. Applicant may wish to consider filing a Request for Continued Examination in order to have the Amendment as filed, considered.

In the Decision mailed May 20, 2004, Applicant was advised to contact the Office of Independent Inventors, at 703-306-5568, for assistance in prosecuting his patent application. Applicant is further advised that the Patent Assistance Center, at 800-786-9199, is also available to assist Applicant.


Further correspondence with respect to this matter should be addressed as follows:

By mail:           Commissioner for Patents  
                    PO Box 1450  
                    Alexandria, VA 22313-1450

By FAX:           (703) 872-9306  
                    Attn: Office of Petitions

By hand:           2201 South Clark Place  
                    Customer Window  
                    Crystal Plaza Two, Lobby Room 1B03  
                    Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

  
Derek L. Woods  
Attorney Advisor  
Office of Petitions